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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/752,125

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09/30/2005

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EXAMINER

TRAN, KHAI

ART UNIT

PAPER NUMBER

2637

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,125

Applicant(s)

JOHNSON, LUKE A.

Examiner

KHAI TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 18, 19 and 21-25 is/are rejected.
- 7) ☒ Claim(s) 14-17 and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. There are 1-28 claims pending in this Office action.
3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 3-4, the term "the sampling rate" lacks antecedent basis; line 4, the term "the rate of the received data" lacks antecedent basis.

Claims 2-9 are rejected by virtue of their dependency.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-12, 18-19, 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakaya et al (U.S. Pat. 5,963,590).

Regarding claims 1-2, Nakaya et al disclose a storage device (col. 3, lines 20-26, a differential detector part 13 having shift registers; a block to adjust the position of the data in the storage device to account for the sampling rate of the apparatus being different than a rate of a received data (col. 3, lines 20-44, the sampling rate changing

part 22 changes a number of bits of each shift register in differential detector part 13 to adapt a preferable sampling rate.

Regarding claim 3, Nakaya et al disclose a detector for detecting sampling error (col. 3, lines 37-44).

Regarding claims 5-6, Nakaya et al disclose a sampling block to sample incoming data using a plurality of clocks to provide a plurality of samples and a multiplexer for receiving a plurality of samples (a sampling clock selector 20 for generating clock signals 32f, 16f, 8f, and 4f, col. 3, lines 37-44).

Regarding claim 7, Nakaya et al disclose a detector block for adjusting the position of the data based on detecting (a sampling rate changing part 22 for selecting a sampling rate based on the bit error ratio E of error ratio monitoring part 21 and changing a number of bits of each shift register in differential detector part 13).

Regarding claim 8, Nakaya et al disclose wherein the block does not shift the data in response to detecting duplicate sampling values of incoming data (col. 4, lines 5-18).

Regarding claim 9, Nakaya et al disclose a storage device being a variable shift register (col. 3, lines 20-26).

Claim 10 is similar to claims 1 and 5. Therefore, claim 10 is rejected under a similar rationale.

Claims 11 and 12 are similar to claim 9. Therefore, claim 11 and 12 are rejected under a similar rationale.

Regarding claims 17, Nakaya et al disclose the sampling block for sampling the incoming data using three sampling clocks to provide three samples (4f, 8f, 16f).

Claim 18 is similar to claim 6. Therefore, claim 18 is rejected under a similar rationale.

Claims 19 is similar to claim 1, 5. Therefore, claim 19 is rejected under a similar rationale.

Claim 21 is similar to claim 9. Therefore, claim 21 is rejected under a similar rationale.

Claim 22 is similar to claim 1. Therefore, claim 22 is rejected under a similar rationale.

Claims 23, 24, 25 are similar to claims 3, 5, 6. Therefore, claims 23-25 are rejected under a similar rationale.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya et al in view of Nishimura (U.S. Pat. 6,049,903).

Regarding claim 4, Nakaya et al fail to disclose a counter block to provide a clock substantially synchronous with the data in response to detecting the at least one sampling error.

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Nishimura disclose a counter (910) being supplied with an error detect signal from the erroneous bit detecting circuit 100 via flip-flop 600 for counting the number of operation clocks required during the time interval that elapses from the start of an error detecting operation unit an error detected. It would have been obvious to one having ordinary skill in the art at the time invention was made to count a number of clocks required for detecting error signal as taught by Nishimura into the teachings of Nakaya et al for reducing the time it takes to make error correction.

Claim 13 is similar to claim 4. Therefore, claim 13 is rejected under a similar rationale.

Allowable Subject Matter

8. Claims 14-17, 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI TRAN whose telephone number is (571) 272-3019. The examiner can normally be reached on 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAY PATEL can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KHAI TRAN
Primary Examiner
Art Unit 2637

KT
September 28, 2005